

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

December 8, 2006

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

**HAWAII**

**Issuance of Right-of-Entry to the United States Army Corps of Engineers for Phase III of its Defense Environmental Restoration Program of the Former Waikoloa Maneuver Area at Lalamilo, South Kohala, Hawaii, Tax Map Key: 3<sup>rd</sup>/ 6- 6-01: 5, 9, 10 & 11; 6-6-03: 6 & 7; and 6-6-05:1**

**APPLICANT:**

United States of America, Department of the Army, Corps of Engineers, whose business and mailing address is Honolulu, Fort Shafter, Hawaii 96858-5440.

**LEGAL REFERENCE:**

Sections 171-55, Hawaii Revised Statutes, as amended.

**LOCATION:**

Portion of Government lands of the Former Waikoloa Maneuver Area situated at Lalamilo, South Kohala, Hawaii, identified by Tax Map Key: 3<sup>rd</sup>/ 6-6-01:5, 9, 10 & 11; 6-6-03:07; and 6-6-05: 01, as shown on the attached map labeled Exhibit A.

**TMK/ ZONING/ ENCUMBRANCE/ AREA:**

TMK	ZONE		AREA (acres)	ENCUMBRANCE
	LUC	CZO		
3 <sup>rd</sup> / 6-6-01: 5	Urban	Unimproved Residential	2.1350	Revocable Permit No. S-7315; Gary L. Davis
3 <sup>rd</sup> / 6-6-01: 9	Urban	Unimproved Residential	1.1200	Revocable Permit No. S-7315; Gary L. Davis
3 <sup>rd</sup> / 6-6-01:10	Agriculture	Agriculture	16.6880	General Lease No. S-5351; Roy Mattos

			.1300	Land Office Deed No. S-26,710; Hawaii Electric Light Company
3 <sup>rd</sup> / 6-6-01:11	Urban	Unimproved Residential	2.3300	Revocable Permit No. S-7315; Gary L. Davis
3 <sup>rd</sup> / 6-6-03: 06	Urban	Agriculture	15.855	EO 2024- University of Hawaii, Waimea Agricultural Experimental Station
3 <sup>rd</sup> / 6-6-03: 07	Urban	Commercial	10.1780	General Lease No. S- 5471; Waimea Outdoor Circle
3 <sup>rd</sup> / 6-6-05: 01	Agriculture	Agriculture	15.2090	Vacant

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CHARACTER OF USE:

For conducting environmental investigation and response; including the right to store, move, and remove equipment and supplies; erect and remove temporary structures on the land; investigate and collect samples; excavate and remove ordnance and explosive waste, pollutants, hazardous substances, contaminated soils, containerized waste, and replace with uncontaminated soil; and other exploratory work, which relates to the locating and removal of unexploded ordnance within the right-of-entry area.

TERM OF RIGHT-OF-ENTRY:

This right-of-entry is for two years, commencing upon approval by the Board of Land and Natural Resources, and expiring upon its second anniversary, or upon completion of the survey/exploration work, whichever is the sooner.

CONSIDERATION:

Gratis.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 4, "minor alteration in the conditions of land, water, or vegetation," and Exemption Class No. 5 that states, "Permission to

enter State lands for the purpose of basic data collection, research, experimental management and resources evaluation activities such as archaeological survey, topographic survey, test borings for soil test, ground cover survey inspection of property for appraisal and development feasibility study purposes.”

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Obtain written concurrence from all users of the subject land.

REMARKS:

The United States of America, Department of the Army, Corps of Engineers (USACE), relating to its Defense Environmental Restoration Program/ Formerly Used Defense Sites (DERP/FUDS) Program requested access over State owned lands to carry out survey, exploratory and ordnance removal work in the area known as the Former Waikoloa Maneuver Area and Nansay Sites. The former Waikoloa Maneuver Area comprises of approximately 123,000 acres located on the northwest portion of the Big Island and is the largest size of clean up carried out by USACE.

In 1943, the marines used the maneuver area as a training camp for up to 40,000 men. Portions of the maneuver area were used as an artillery firing range where live ammunition and other explosives were employed, with remaining acreage utilized for troop maneuvers and encampment. Approximately 467 acres were used for tents and Quonset huts referred to as “Camp Tarawa”. The marines vacated the premises on June 30, 1946; the U.S. Government surrendered its rights to the site. At least two organized ordnance clearance efforts were performed in 1946 and 1954. The current survey and exploratory work which is consistent with the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) is undertaken whenever such “imminent and substantial endangerment” is found at a facility or site that is under the jurisdiction of the Secretary of Defense and is owned by, leased to, or otherwise possessed by the United States at the time of actions leading to contamination. The cost for ordnance clean up is estimated to run \$800 million to \$900 million.

In 1997, the Army Corps of Engineers conducted Phase I of its Project (No. H9H1035901), contracting Earth Tech, Inc. to survey over 521 acres within the Former Waikoloa Maneuver Area.

In November 2000, Phase II of the Project (No. H9H1035902) commenced, which covered an additional 16,499 acres. While conducting Phase II, field investigations indicated that there were a high risk in the Ouli Parcel due to the type, number, depth

of unexploded ordnance recovered in the area, the close proximity to occupied residences, and that the area is frequently utilized by the public. Due to community concerns for public health and safety, approximately 300 acres within the Ouli ahupua'a was targeted for time critical removal actions.

At its meeting of April 8, 2004, the Board of Land and Natural Resources, Agenda Item D-4, approved the Issuance of a Right-of-Entry to the United States Army Corps of Engineers for Phase III of its Defense Environmental Restoration Program of the Former Waikoloa Maneuver Area at Kawaihae 2<sup>nd</sup>-Lanikepu and Lalamilo. Tax Map Key: 3<sup>rd</sup>/ 6-2-01:11, 15 & 65; 6-2-02: 1 & 8; 6-6-02: 31, 32, 34, 35, 39, 40, 41, 42 & 43; 6-9-01: 2, 15 & 17. This portion of Phase III of the project included approximately 3,415 acres of State owned lands for filed investigation and restoration.

By letter dated July 13, 2006, the United States Army Corps of Engineer, relating to its DERP/FUDS Program, is requesting access over additional State-owned lands to continue performance of its Phase III Engineering Evaluation/ Cost Analysis to evaluate potential human health risks from ordnance and explosives that might remain in the right-of-entry area. This portion of the restoration work is over portion of State lands situated at Lalamilo, South Kohala, Hawaii, identified by Tax Map Key: 3<sup>rd</sup>/ 6-6-01:5, 9, 10 & 11; 6-6-03:6 & 7; and 6-6-05:1. The right-of-entry is being requested over a twenty-four month period.

#### RECOMMENDATION:

That the Board, subject to the Applicant fulfilling the Applicant Requirements above, authorize the issuance of a right-of-entry permit to The United States of America, Department of the Army, Corps of Engineers. Purpose of the right-of-entry is to allow the Army Corps of Engineers to carry out Phase III of its restoration project, which will include a survey, making of test borings, and other exploratory work relating to the removal of unexploded ordnance. This permit, covering the subject area under the terms and conditions cited above, which are by this reference incorporated is herein and further subject to the following:

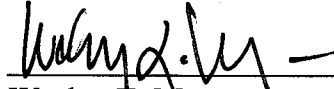
1. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time;
2. The term of this right-of-entry shall be for twenty-four (24) months, commencing on December 1, 2006 and expiring on November 30, 2008 or upon completion of the survey/ investigation, whichever is the sooner. Extensions may be granted by the Chairperson, as required;

TMK: 3<sup>rd</sup>/ 6-6-01: 5, 9, 10 & 11

6-6-03:6&8; 6-6-5:1

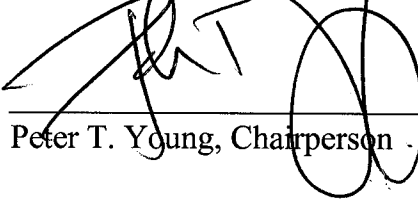
3. Review and approval by the Department of the Attorney General; and
4. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Wesley T. Matsunaga  
Acting District Land Agent

APPROVED FOR SUBMITTAL:



Peter T. Young, Chairperson

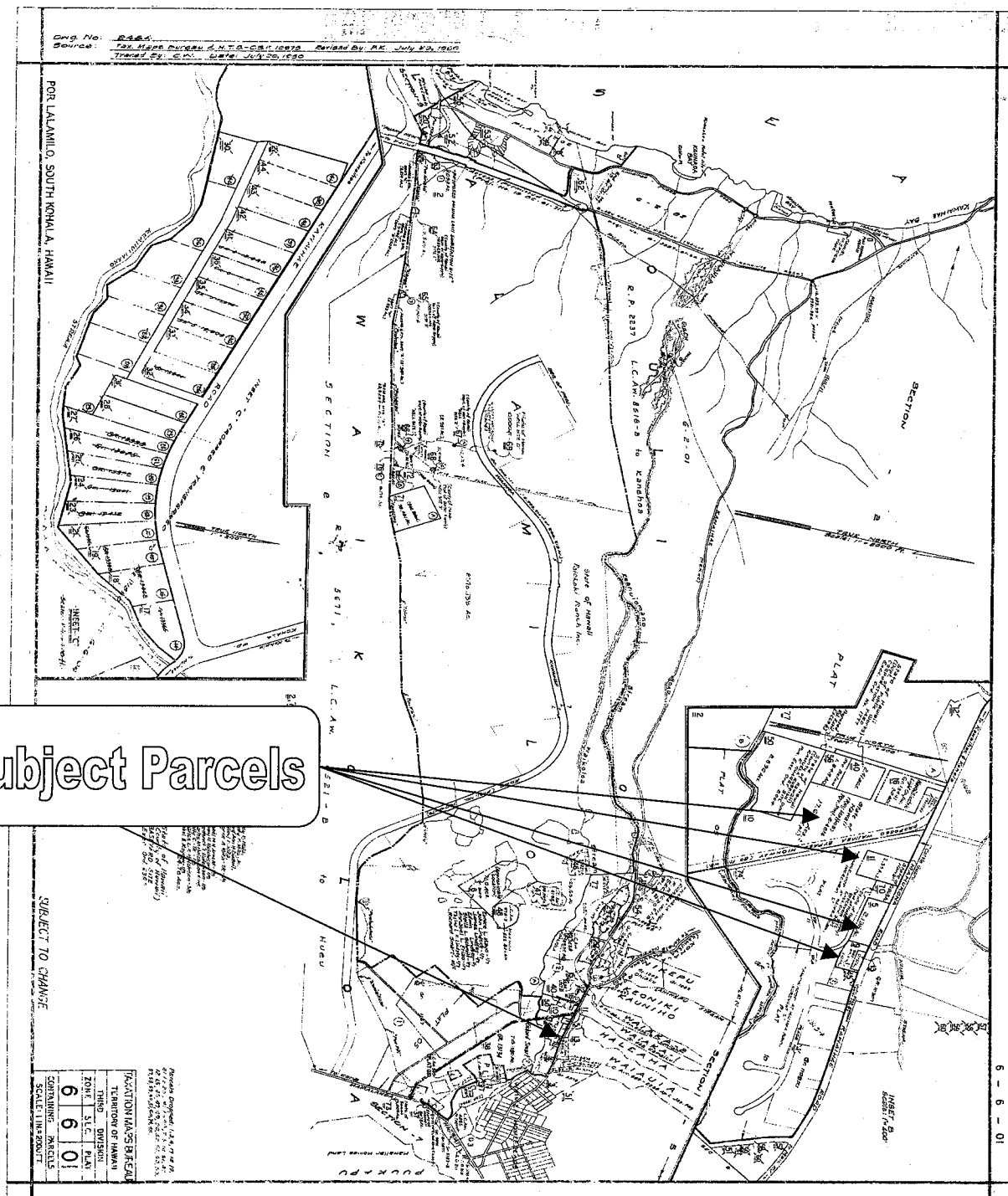
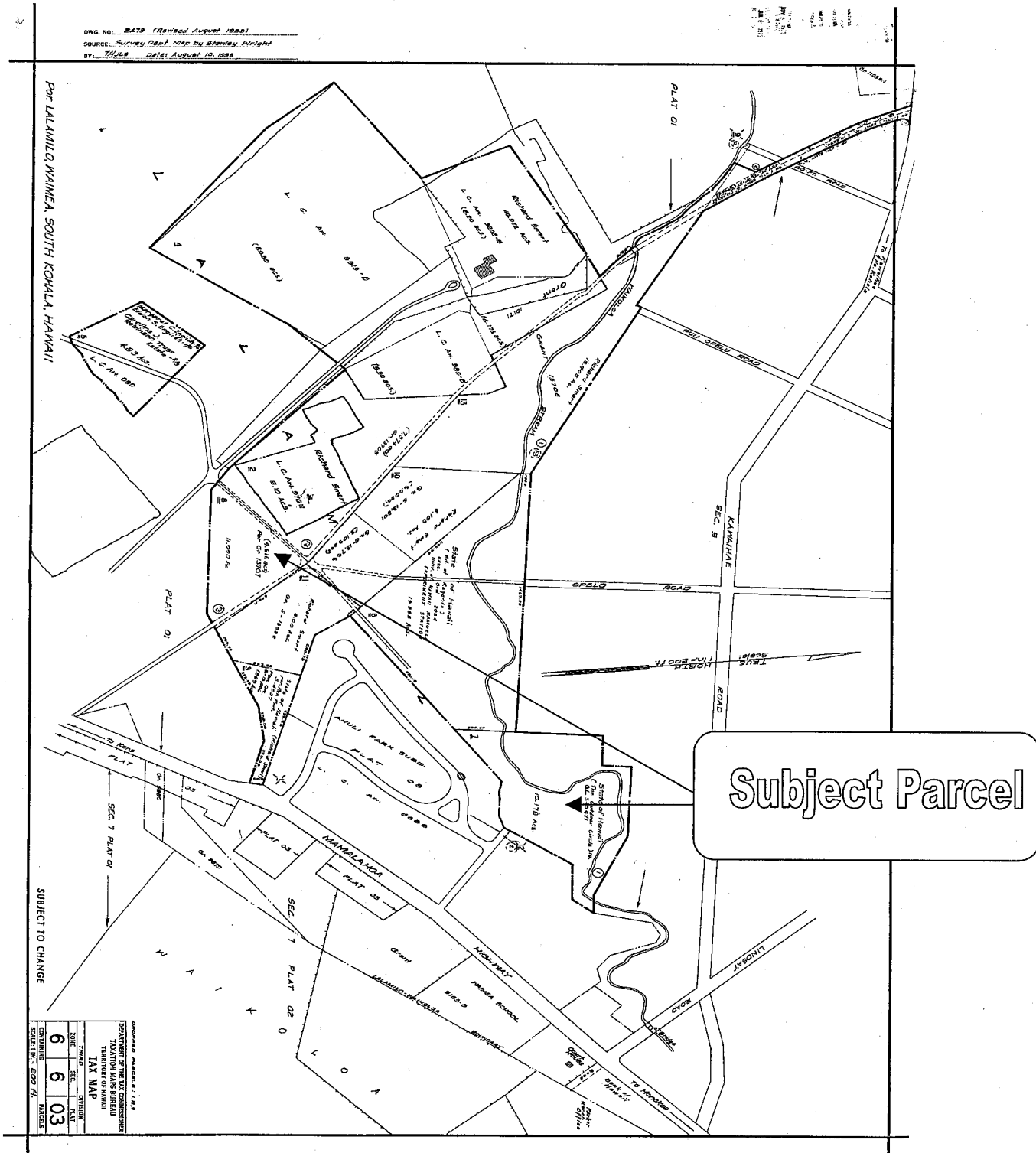
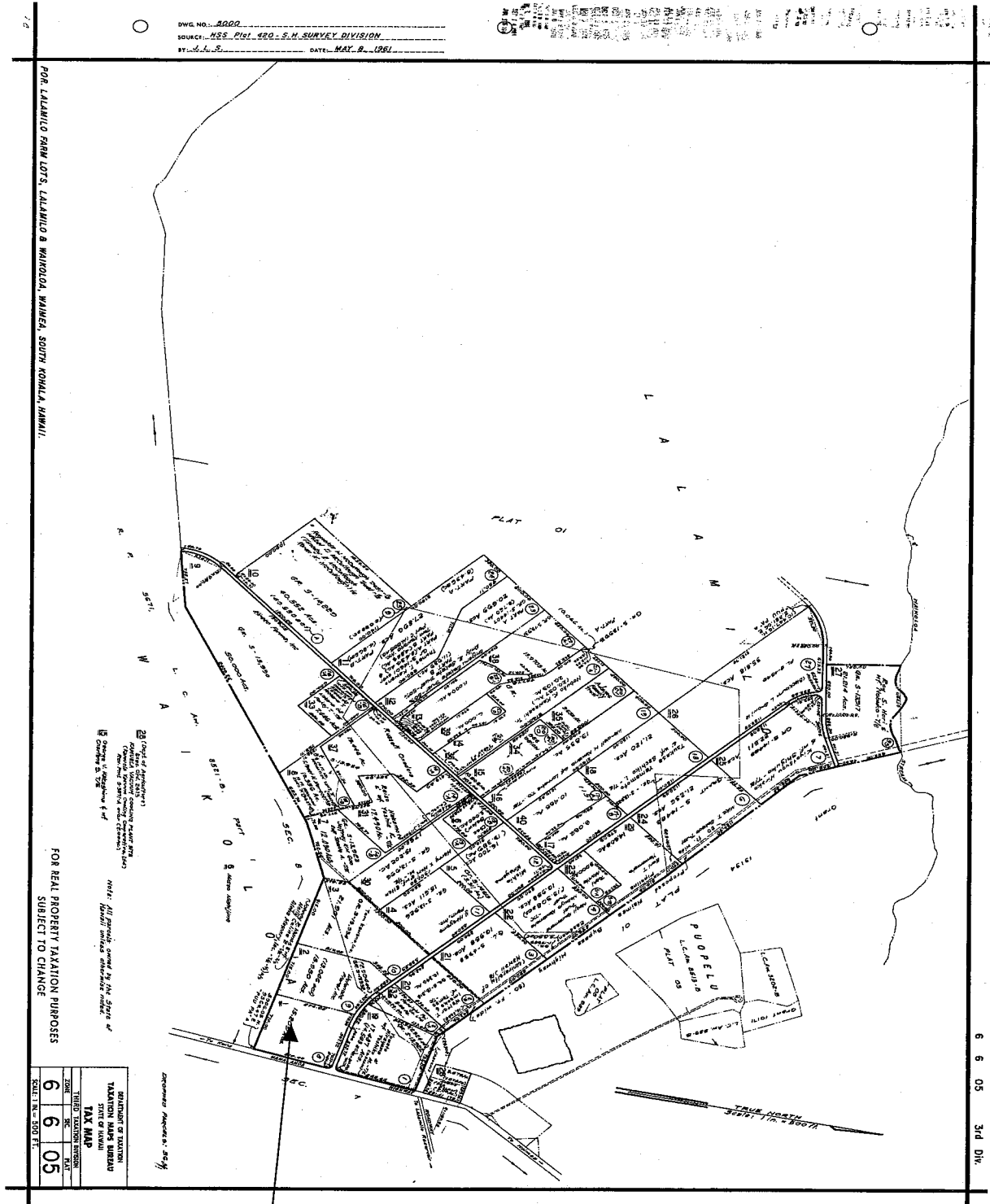


EXHIBIT A



# EXHIBIT A



Subject

EXHIBIT A